

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

DENNIS HOPKINS, ET AL.

PLAINTIFFS

V.

CIVIL ACTION NO. 3:18cv188-DPJ-FKB

**SECRETARY OF STATE DELBERT HOSEMANN,
in his official capacity**

DEFENDANT

NOTICE OF APPEAL

Defendant Secretary of State Delbert Hosemann, in his official capacity, acting pursuant to Rule 3 of the Federal Rules of Appellate Procedure, hereby appeals this Court's August 7, 2019 order, [Dkt. 21; Dkt. 91, No. 3:17cv791-DPJ-FKB¹], denying Secretary Hosemann summary judgment on Eleventh Amendment immunity, and other jurisdictional grounds, to the United States Court of Appeals for the Fifth Circuit. Jurisdiction of this appeal from the denial of Secretary Hosemann's claim of Eleventh Amendment immunity, and related subject-matter jurisdictional issues, is proper pursuant to the collateral order doctrine. *E.g.*, **Keyes v. Gunn**, 890 F.3d 232, 235 n.4 (5th Cir. 2018); **Bryant v. Texas Department of Aging and Disability Services**, 781 F.3d 764, 768 (5th Cir. 2015).²

¹ The August 7, 2019 order was initially docketed in Civil Action No. 3:17cv791-DPJ-FKB, and this case was consolidated with No. 3:17cv791-DPJ-FKB for all purposes prior to entry of the order. Due to the consolidation, the record on appeal should include all docket entries filed on or before August 7, 2019 in No. 3:17cv791-DPJ-FKB.

² Secretary Hosemann and the plaintiffs have each filed petitions seeking interlocutory appeal from this Court's August 7, 2019 order pursuant 28 U.S.C. § 1292(b). Those petitions are currently pending before the United States Court of Appeals for the Fifth Circuit and assigned Fifth Circuit Cause No. 19-00024. Should the Fifth Circuit grant an interlocutory appeal from the August 7 order pursuant to § 1292(b), this appeal authorized by the collateral order doctrine should be consolidated and merged with it.

THIS the 3rd day of September, 2019.

Respectfully submitted,

DELBERT HOSEMANN,
SECRETARY OF STATE OF MISSISSIPPI

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